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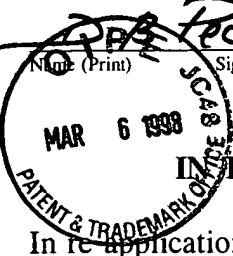
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File No.: 1225/0C675-US2



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: David BERD

Serial No: To Be Assigned (For Reissue of U.S. Patent No. 5,290,551)

Filed: Concurrently Herewith

For: **TREATMENT OF MELANOMA WITH A VACCINE  
COMPRISING IRRADIATED AUTOLOGOUS MELANOMA  
TUMOR CELLS CONJUGATED TO A HAPTEN**

Assignee: Thomas Jefferson University

Honorable Commissioner of  
Patents and Trademarks  
Washington, DC 20231

POWER OF ATTORNEY

Thomas Jefferson University hereby appoints the following attorneys and/or agents to prosecute this reissue patent application and to transact all business in the Patent and Trademark Office connected herewith:

William F. Dudine, Reg. No. 20,569; Michael J. Sweedler, Reg. No. 19,937; S. Peter Ludwig, Reg. No. 25,351; Paul Fields, Reg. No. 20,298; Joseph B. Lerch, Reg. No. 26,936; Melvin C. Garner, Reg. No. 26,272; Ethan Horwitz, Reg. No. 27,646; Beverly B. Goodwin, Reg. No. 28,417; Adda C. Gogoris, Reg. No. 29,714; Martin E. Goldstein, Reg. No. 20,869; Bert J. Lewen, Reg. No. 19,407; Henry Sternberg, Reg. No. 22,408; Peter C. Schechter, Reg. No. 31,662; Robert Schaffer, Reg. No. 31,194; David R. Francescani, Reg. No. 25,159, and Nada Jain, Reg. No. 41,431 all of Darby & Darby, P.C., 805 Third Avenue, New York, NY, 10022.

Thomas Jefferson University

Date: March 5, 1998

By: [Signature]

Name, Title

**JUSSI J. SAUKKONEN, MD**  
Dean, College of Graduate Studies and  
Vice President for Science Policy, Technology  
Development and International Affairs

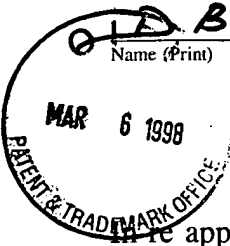
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Date:

3/5/98

David Berd

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(For Reissue of U.S. Patent No. 5,290,551)

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Assignee: Thomas Jefferson University

Honorable Commissioner of  
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Washington, DC 20231

**DECLARATION UNDER 37 C.F.R. §1.175**

David BERD, the named inventor of United States Patent No.

5,290,551 ("the '551 Patent") and the applicant for reissue thereof declares that:

1. I am a citizen of United States residing at 125 Heacock Lane, Wyncote, Pennsylvania 19095.

2. I assigned the entire title to the '551 Patent, granted to me on March 1, 1994, for TREATMENT OF MELANOMA WITH A VACCINE COMPRISING IRRADIATED AUTOLOGOUS MELANOMA TUMOR CELLS CONJUGATED TO A HAPTEN to Thomas Jefferson University, by an assignment recorded in the United States Patent and Trademark Office on July 6, 1990, at Reel 5336, Frame 880.

3. I make this declaration under 37 C.F.R. §1.175 in support of the application for reissue.

4. I have reviewed and understand the contents of the above-identified specification, including the claims as amended.

5. I believe that I am the original, first and sole inventor of the subject matter which is described and claimed in the aforesaid '551 Patent and in the foregoing specification, including the claims as amended, and for which I solicit a reissue patent.

6. I acknowledge the duty to disclose information of which I am aware which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

7. Although I consider my invention a significant advance in the art, I believe the '551 Patent may be partially invalid because I may have claimed more than I had a right to claim in view of my abstract entitled "Tumor Inflammatory Response Induced by Immunization with Autologous Melanoma Cells Conjugated to Dinitrophenol (DNP)," *Proc. Am. Assoc. Cancer Res.*, v. 30, March 1989 (Exhibit A). This publication was not cited to

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the Patent Office, although it was published more than one year prior to May 8, 1990, the filing date of U.S. application Ser. No. 520,649 ("the '649 application"), which is the parent of the application Ser. No. 985,334 ("the '334 application"). The '334 application issued as the '551 Patent. The Abstract was also presented at the 80th Annual Meeting of the American Association for Cancer Research ("the AACR Meeting") held May 24-27, 1989 in San Francisco, which was less than one year before the May 8, 1990 filing date.

8. At the time the '649 application was being prepared for filing in the period immediately prior to May 8, 1990, I believed that the Abstract was made public at the AACR Meeting in San Francisco, on or about May 24, 1989. Consequently, I believed that the meeting date was the critical date for filing my application. I did not appreciate that the AACR Meeting abstract was published before the actual meeting date, nor that the actual date of publication of my abstract was prior to May 8, 1989. Thus, I did not advise my attorneys, the Patent Office or anyone else as to any publication date for the Abstract that was earlier than the AACR Meeting, May 24-27, 1989. I now realize that it was an error to overlook the Abstract publication date, and it was an error not to inform the Patent Office concerning this prior art. This error was made without any deceptive intent.

9. The error came to my attention when the Abstract was cited by the Examiner in a related application, Ser. No. 08/203,004 filed February 28, 1994.

I further declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code, and may jeopardize the validity of the application or any patent issuing therefrom.

**FULL NAME AND RESIDENCE OF INVENTOR**

LAST NAME: Berd

FIRST NAME: David

MIDDLE NAME:

CITY: Wyncote STATE OR FOREIGN COUNTRY: Pennsylvania COUNTRY OF CITIZENSHIP: U.S.

POST OFFICE ADDRESS: 125 Heacock Lane CITY: Wyncote STATE OR COUNTRY: PA ZIP CODE: 19095

Date: \_\_\_\_\_

3/5/98

*David Berd*

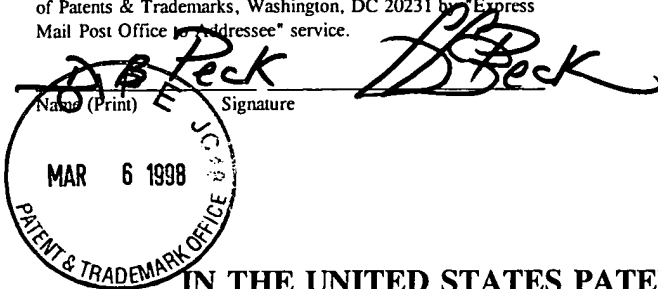
David BERD, Inventor

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Assignee: Thomas Jefferson University

Honorable Commissioner of  
Patents and Trademarks  
Washington, DC 20231

**ASSENT TO REISSUE**

Thomas Jefferson University, a non-profit organization existing under the laws of Pennsylvania, and having a place of business at 11th and Walnut Streets, Philadelphia, Pennsylvania, and assignee of the entire right, title, and interest in U.S. Patent 5,290,551, for "TREATMENT OF MELANOMA WITH A VACCINE COMPRISING IRRADIATED AUTOLOGOUS MELANOMA TUMOR CELLS CONJUGATED TO A HAPTEN" granted on March 1, 1994, hereby assents to the accompanying application to reissue said patent.

Thomas Jefferson University

Date: March 5, 1998

By: [Signature]  
Name, Title

JUSSI J. SAUKKONEN, MD  
Dean, College of Graduate Studies and  
Vice President for Science Policy, Technology  
Development and International Affairs

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Name (Print) D B Peck Signature [Signature]



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Assignee: Thomas Jefferson University

Honorable Commissioner of  
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Washington, DC 20231

**OFFER TO SURRENDER UNDER 37 C.F.R. §1.178**  
**AND A SUBMISSION ESTABLISHING OWNERSHIP UNDER 37 C.F.R §3.73(b)**

Thomas Jefferson University, who is now the sole owner of U.S. Patent No. 5,290,551 for "TREATMENT OF MELANOMA WITH A VACCINE COMPRISING IRRADIATED AUTOLOGOUS MELANOMA TUMOR CELLS CONJUGATED TO A HAPTEN" granted on March 1, 1994, by assignment from the inventor David Berd recorded July 6, 1990 with the U.S. Patent and Trademark Office at Reel 5336, Frame 880, and on whose behalf and with whose assent the accompanying application for reissue is made, hereby offers to surrender said Letters Patent.

Thomas Jefferson University

Date: March 5, 1998

By: [Signature]  
Name, Title JUSSI J. SAUKKONEN, MD  
Dean, College of Graduate Studies and  
Vice President for Science Policy, Technology  
Development and International Affairs

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PTO/BB/98 (2-88)  
 Approved for use through 08/30/2000. OMB 0851-0031  
 Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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### STATEMENT UNDER 37 CFR 3.73(b)

Applicant: \_\_\_\_\_

Application No.: \_\_\_\_\_ Filed: \_\_\_\_\_

Entitled: \_\_\_\_\_

\_\_\_\_\_, a \_\_\_\_\_,  
 (Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
 The document was recorded in the Patent and Trademark Office at  
 Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
 The document was recorded in the Patent and Trademark Office at  
 Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
 The document was recorded in the Patent and Trademark Office at  
 Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Typed or printed name

\_\_\_\_\_  
 Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.